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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,876	02/12/2002	Wolfgang Ruf	P21902	2423
7055	7590	11/03/2005	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			FORTUNA, JOSE A	
			ART UNIT	PAPER NUMBER
			1731	

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/072,876	RUF ET AL.	
	Examiner	Art Unit	
	José A. Fortuna	1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 11, 15, 17-23, 31, 35, 37-42, 44, and 48-50 are rejected under 35

U.S.C. 102(b) as being anticipated by Ruf et al., US Patent No. 5,645,689.

Ruf et al. teach a Multilayer headbox having at least one lamella disposed between a nozzle chamber, see abstract. Ruf et al. teach that the lamella(s) has/have upstream structure and a downstream structure. The downstream portion having first surface, a sloped portion and second surface opposed to the first surface, see figures 5-8. The figures also show the sloped part faces one of the nozzle walls. Ruf et al. teach in column 5, lines 39-44, that the nozzle walls can be provided with a deformable strip, called screen and *teach in column 4, line 64 through column 5, line 6 and shown in figure 6, that the lamella can be provided with a structure in said second surface i.e., the combination of the structure 9.6 and 8.6 of figure 6, corresponding to the sloped part of the first surface and the structure formed on said second surface respectively, and in figure 7, the top side 9.7, includes a horizontal surface and a sloped surface.* In column 6, lines 1-62, Ruf et al. teach that the headbox have a sectional consistency control, i.e., dilution water can be introduced to the headbox through sectional pipes. In column 3, lines 60-64, Ruf et al. teach that the lamella can swivel, pivotally mounted, or can be rigidly secured, fixedly mounted.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 12, 32, 46 and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruf et al., (cited above) in view of Sanford, US Patent No. 4,941,950 (cited in the IDS filed on May 12, 2002).

Ruf et al. do not teach a grooved surface on the trailing elements or lamella. However, Sanford teaches that including grooves in the surfaces of the lamella/trailing elements help in the reduction of turbulence within the slice chamber, improving the paper formation, see column 3,

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as suggested by Sanford would have been obvious to one of ordinary skill in the art in order to improve paper formation.

5. Claims 4-10, 13-14, 16, 24-30, 33-34, 36, 43 and 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruf et al., cited above.

Ruf et al. are silent with respect to the specific of the above claims, i.e., the angle, thickness and size of the lamella, the polymers used to make the lamella. However, it has been held that changing of size and geometric form of a device is within the levels of ordinary skill in the art absent a showing of unexpected results. It has been held that “[C]hanges in size, shape without special functional significance are not patentable. *Research Corp. v. Nasco Industries, Inc.*, 501 F2d 358; 182 USPQ 449 (CA 7), cert. denied 184 USPQ 193; 43 USLW 3359 (1974).

Conclusion


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure in the art of “Lamella for Headboxes.”

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José A. Fortuna whose telephone number is 571-272-1188. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jose A Fortuna
Primary Examiner
Art Unit 1731

JAF